

1 THE HONORABLE JAMES L. ROBART  
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10 UNITED STATES DISTRICT COURT FOR THE  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT SEATTLE  
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15 UNITED STATES OF AMERICA,  
16 Plaintiff,  
17  
18 v.  
19 CITY OF SEATTLE,  
20 Defendant.  
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22 No. 2:12-cv-01282-JLR  
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25 **UNITED STATES' UPDATE ON THE  
26 STATUS OF THE CITY OF SEATTLE'S  
27 SUSTAINMENT OF COMPLIANCE WITH  
28 THE TERMS OF THE CONSENT DECREE**

29 **I. INTRODUCTION**

30 The Sustainment Plan (Dkt. 444)<sup>1</sup> represents the Parties, the Monitoring Team, and the  
31 Court's agreement regarding the measures the City must take to demonstrate that it has sustained  
32 compliance for the two year period required by the terms of this case's governing document, the  
33 Consent Decree. One requirement of the Plan is that the Parties and the Monitoring Team  
34 provide a "general overall update [to] the Court on the current status of progress and sustainment  
35 of required Consent Decree reforms" in February 2019. *See* (Dkt. 444-1) at 29. At this time, the  
36 United States notifies the Court that since March 2018, the City has met all required deadlines  
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1 set forth in the Sustainment Plan, has worked in good faith with the United States and the  
 2 Monitoring Team to comply with all requirements of the Consent Decree, and has demonstrated  
 3 sustained compliance which each of the areas evaluated pursuant to the plan's deadlines. The  
 4 specifics of these actions are set forth in more detail below and provide the United States with  
 5 confidence that the City can, if it continues to devote the resources and dedication to reform that  
 6 it has shown so far, demonstrate its fulfilment of the Consent Decree requirements by January  
 7 2020. Until that time, and for the remainder of the time that the Consent Decree is in place, the  
 8 United States will continue to monitor and assess the City's fulfillment of those requirements  
 9 with diligence and scrutiny.

## 12           **II. HISTORY OF THE SUSTAINMENT PERIOD TO DATE**

### 13           **A. Phase I of the Consent Decree – Reaching Full and Effective Compliance**

14           The Consent Decree required reforms to the Seattle Police Department (“SPD”)'s  
 15 policies and practices to correct an alleged pattern or practice of unconstitutional policing. *See*  
 16 (Dkt. 3-1) (calling for reforms related to use of force, crisis intervention, stops and detentions,  
 17 bias-free policing, supervision, and the Office of Professional Accountability (now the Office of  
 18 Police Accountability (“OPA”)). After entry of the Consent Decree in 2012, the City of Seattle  
 19 commenced (with assistance of the Monitoring Team and the United States) making changes to  
 20 policies, practices, and training to conform with these requirements. During Phase I, the Parties  
 21 and the Monitoring Team agreed to assess SPD's compliance with the Consent Decree using  
 22 “Compliance Reviews and Audits.” *See id.* at ¶¶ 183-185 (as opposed to the Consent Decree's  
 23 alternate compliance mechanism, “Outcome Assessments”). Accordingly, the Monitoring Team  
 24 and the United States conducted ten assessments covering each of the general topic areas of the  
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1 Consent Decree (as well as a re-assessment of one assessed area that was not found in initial  
 2 compliance) for various time periods falling between July 2014 and January 2017. *See* (Dkts.  
 3 231, 247, 235, 259-1, 272, 351, 360, 374, 383, and 394). Through these assessments, the  
 4 Monitoring Team and the United States ultimately concluded that the City of Seattle had  
 5 demonstrated compliance with all of the requirements of the Consent Decree. *Id.* (finding each  
 6 area in “initial compliance”). On that basis, the Court found the City of Seattle in “full and  
 7 effective compliance with the Consent Decree.” *See* (Dkt. 439).

8 **B. Phase II of the Consent Decree – Demonstrating Sustained Compliance**

9 The City’s obligations under the Consent Decree did not end when the City initially  
 10 obtained full and effective compliance. Under the agreement, before the Consent Decree can  
 11 terminate, the City of Seattle must demonstrate that it has sustained that compliance for a period  
 12 of two years. The Sustainment Plan, approved by the Court in March 2018, sets forth the  
 13 requirements and deadlines relevant to that demonstration. *See* (Dkt. 444-1). During this period,  
 14 the City of Seattle takes the lead in self-assessing each of the topic areas covered by the Consent  
 15 Decree. This means that the City drafts a methodology that will govern the manner by which the  
 16 topic area is evaluated or audited and then conducts an assessment consistent with that  
 17 methodology. The Monitoring Team and the United States play an active role in monitoring  
 18 these efforts – the Monitoring Team and the United States review, comment, and ultimately  
 19 approve the methodology proposed by the City only if each feels that it satisfies the rigorous and  
 20 statistically appropriate requirements of assessing compliance with that topic area. Further, the  
 21 Monitoring Team and the United States review randomized samples of documents from the  
 22 audits conducted by the City of Seattle to verify the results of the City of Seattle’s audit. If the  
 23

1 Monitoring Team or the United States reach different conclusions than the City regarding the  
2 results of any of these audits, the Monitoring Team and the United States both have the ability to  
3 file a “Supplemental Brief” flagging such disagreement with the Court. As described in more  
4 detail herein, such filings have not been necessary as the Monitoring Team and the United States  
5 have been in agreement that the City has demonstrated sustained compliance in each of the areas  
6 assessed thus far.

8 **C. Status of the City of Seattle’s Sustainment Audits to Date**

9 Since the Court’s approval of the Sustainment Plan in March 2018, the City of Seattle has  
10 been required to complete self-assessments in several topic areas under the Consent Decree:  
11 (1) Type I Use of Force Reporting & Investigations; (2) Type II Use of Force Reporting &  
12 Investigations; (3) General Supervision; and (4) Crisis Intervention. *See* (Dkt. 444-1). The City  
13 of Seattle timely submitted to the Monitoring Team and the United States draft methodologies  
14 and draft audit reports for each of these areas. Moreover, for the reasons provided below (and  
15 detailed in each audit report filed with the Court), the City of Seattle demonstrated sustained  
16 compliance in each of these areas to the satisfaction of the Monitoring Team and United States.  
17 Notably, in each of these assessed areas, the Monitoring Team and United States identified issues  
18 that, while not rising to the level of non-compliance, warrant further attention and review by the  
19 City of Seattle. The Monitoring Team and United States identified these issues in the  
20 “Validation – DOJ and Monitoring Team Review” section found at the end of each of the City’s  
21 audit reports. It is the United States’ expectation that the City will review and address these  
22 issues in advance of the City’s second round of self-assessments during the Sustainment Period.  
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1        1. Type I and Type II Use of Force Reporting and Investigation

2        The City of Seattle opted to combine its self-assessments of SPD's reporting and  
 3 investigation of officer's use of lower level, "Type I and Type II," uses of force (primarily  
 4 defined as force that involves either transitory pain, the complaint of pain, or force that causes or  
 5 is reasonably expected to cause less than great or substantial bodily injury). *See* (Dkt. 497-1).  
 6 This assessment covered paragraphs 100-111 of the Consent Decree and assessed, among other  
 7 things, whether SPD officers appropriately reported and documented Type I and II uses of force  
 8 and whether supervisors appropriately reviewed and investigated that force, including making  
 9 appropriate referrals to address problems, as warranted. *Id.*

10        SPD conducted its self-assessment of these areas by leveraging the work of the Force  
 11 Review Unit ("FRU") and Force Review Board ("FRB"), whose existing mandate includes  
 12 reviews of each of these issues. *Id.* Instead of selecting an audit sample, SPD opted to review all  
 13 uses of force occurring between January 1, 2018 and June 30, 2018 for Type Is and all uses of  
 14 force occurring between January 1, 2018 and March 30, 2018 for Type IIs. *Id.* SPD found that  
 15 92.8% of the investigation files for Type I and II uses of force in the sample period were  
 16 complete and thorough (an improvement from the 86% identified by the Monitor in Phase I).  
 17 After reviewing this and other data and information (discussed more fully in the audit report),  
 18 SPD concluded that it had sustained compliance with this topic area.

19        The United States and the Monitoring Team's reviews validated this assertion. In  
 20 addition to providing guidance and ultimate approval for the methodology governing SPD's  
 21 audit, the United States and the Monitoring Team also conducted their own sampling of Type I  
 22 and II uses of force from the audit period. Specifically, the United States and the Monitoring

1 Team reviewed 10% of the Type I uses of force and 20% of the Type II uses of force from SPD's  
 2 audit. After reviewing these cases, the United States and the Monitoring Team concluded,  
 3 among other things, that the "overall quality of SPD's review and investigation was high and the  
 4 care that officers and their chain of command took in writing reports, reviewing information,  
 5 ensuring complete reporting, probing issues of concern, and addressing shortcomings was  
 6 impressive." *Id.* at 23. As a result, the United States and the Monitoring Team concurred that  
 7 SPD has demonstrated sustained compliance in this topic area. However, the United States and  
 8 Monitoring Team also offered up technical assistance for areas of improvement, such as  
 9 clarifying the rules around delegation of review authority and articulating the sufficiency (or lack  
 10 thereof) of the Lieutenant-level review. The next (and potentially last) audit and validation of  
 11 this topic area is scheduled to occur by July 2019 and October 2019 (though SPD may opt to  
 12 combine these two use of force investigation and review audits again, in which case the deadline  
 13 for filing would be combined).

17       2.       General Supervision

18       The City of Seattle audited paragraphs 153-156 of the Consent Decree through an audit,  
 19 filed as the "Supervision Report."<sup>2</sup> *See* (Dkt. 497-2). This audit covered the period from the  
 20 Court's declaration of full and effective compliance (January 10, 2018) to June 30, 2018. *Id.*  
 21 The audit addressed the specific supervisory mandates of paragraphs 153-156, namely:  
 22 (1) adequacy of supervision (*i.e.* whether SPD deploys enough trained first-line supervisors to

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26       <sup>2</sup> Because SPD opted to use all data in the sampled period, it chose to rename the audit a "report" to be  
 27 more semantically accurate. For purposes of discussing SPD's work relative to the requirements of the  
 28 Sustainment Plan, which calls this work "audits," we have continued to refer to it as an audit throughout.  
 This difference in nomenclature may apply to other "audits" as well.

1 respond to and investigate all uses of force); (2) unity of command (*i.e.* whether SPD provides  
 2 first-line supervisors that work the same days and hours as officers they supervise); and (3)  
 3 adequacy of acting sergeant training (*i.e.* whether officers serving as acting sergeants for more  
 4 than 60 days received appropriate sergeant-level training). *Id.*; (Dkt. 3-1) at 48-49.  
 5

6 With respect to the adequacy of supervision, the City examined supervisor work and  
 7 reporting on Type I and II uses of force during the study period. *See* (Dkt. 497-2). From this  
 8 data, the City was able to demonstrate that supervisors were routinely completing all of the  
 9 investigation and reporting requirements related to use of force. *Id.* at 10. Indeed, they did not  
 10 find any cases in which a supervisor failed to screen a use of force and they confirmed that  
 11 supervisors responded to the scene of all Type II uses of force during the study period. *Id.*  
 12 Accordingly, the City was able to conclude that SPD is employing enough first-line supervisors  
 13 to investigate uses of force. *Id.* at 11. With respect to unity of command, the City noted that  
 14 during the period of the United States' investigation, a different patrol staffing approach was in  
 15 place in which officers did not consistently report to the same supervisor. *Id.* That approach has  
 16 since changed and the City was able to examine data from its Data Analytics Platform ("DAP"),  
 17 cross-referenced with roll calls sheets, to confirm that all officers within a squad now have the  
 18 same scheduled work week and report to the same supervisor. *Id.* at 11-12. Finally, the City was  
 19 able to query its training data to demonstrate that 100% of all officers serving as acting sergeants  
 20 for more than 60 days received sergeant training within 90 days of assuming that position. *Id.* at  
 21 14-15. Accordingly, the City demonstrated compliance with paragraphs 153-156 of the Consent  
 22 Decree.  
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1 The United States and the Monitoring Team validated the work and conclusions of this  
 2 audit by consulting with the City regarding the data to be queried and by cross-referencing the  
 3 outcome of other audits (for instance the Type I and Type II Force Reporting and Investigation  
 4 Audit, which demonstrated SPD's compliance with supervisory requirements related to  
 5 investigating and reporting force). The United States and the Monitoring Team will continue  
 6 evaluating other audits during Phase II for indications of lack of inadequate supervisory staffing  
 7 or training. At this time, we have not seen indications of either. The next (and potentially last)  
 8 General Supervision Audit is currently scheduled to occur by November 2019.  
 9

10       3. Crisis Intervention

11       The City of Seattle audited paragraphs 130-137 of the Consent Decree through a Crisis  
 12 Intervention Audit. *See* (Dkt. 511). This audit covered the time period from January 1, 2017, to  
 13 June 30, 2018. *Id.* The audit examined requirements related to crisis intervention training,  
 14 staffing and deployment of Crisis Intervention Certified Officers ("CIT officers"), disposition  
 15 and outcome of crisis calls, consultation with a Crisis Intervention Committee ("CIC") (made up  
 16 of mental health and social work professionals), analysis of crisis data, and a qualitative  
 17 evaluation of uses of force involving persons in crisis. *Id.* at 4-5.  
 18

19       Through the audit, the City was able to verify its compliance with the Consent Decree  
 20 mandates in each of these areas. Among other things, the audit verified that the City provides at  
 21 least 8 hours of crisis-intervention related training to all of its officers, trains dispatchers how to  
 22 identify and dispatch crisis-related calls, and provides 40 hours of crisis intervention training for  
 23 CIT-certified officers. *Id.* at 5-6. And, as of the study period, 73% of patrol officers are CIT-  
 24 certified. In addition, the City confirmed its regular consultation with the CIC, which includes  
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1 participants from local hospitals, mental health service providers, and social service providers.  
 2 *Id.* at 39-40. Further, the City demonstrated that approximately 80% of SPD's 15,000 contacts  
 3 involving someone in crisis involved a CIT certified officer. *Id.* at 40-41. Only 1.7% of those  
 4 contacts resulted in the use of any reportable force. *Id.* Moreover, SPD's Force Investigation  
 5 Unit and Force Investigation Board found that officers' use of force was necessary, reasonable,  
 6 and appropriate and, when officer action violated policy or suggested the need for additional  
 7 training, supervisors made appropriate referrals. *Id.* at 25.

8  
 9 The United States and the Monitoring Team validated the results of this audit by  
 10 consulting on and approving the methodology used, conducting independent interviews of Crisis  
 11 Response Unit Staff, and by conducting an independent assessment of a randomly generated  
 12 sample of use of force cases involving people in crisis during the study period. *Id.* at 39-41.  
 13 Specifically, the United States and the Monitoring Team examined six Type I case files, five  
 14 Type II force case files, and three Type III case files (representing all of the Type III uses of  
 15 force against people in crisis during the 18 month study period). *Id.* at 40. The United States  
 16 and the Monitoring Team ultimately concluded that these case files supported SPD's finding of  
 17 compliance with the requirements of the Consent Decree, and noted that in the few instances  
 18 where officer behavior was at odds with SPD policy or training, supervisors made appropriate  
 19 referrals to address these concerns. *Id.* The United States and the Monitoring Team also offered  
 20 technical assistance regarding crisis intervention, including: focusing training on the designation  
 21 of a tactical leader and tactical positioning, particularly in crisis-related events; ensuring that an  
 22 officer's degree of crisis training is clear in the force review file; and training the Hostage  
 23 Negotiation Team in a manner consistent with the Crisis Intervention Certification training to  
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1 assist in their encounters with people in crisis. There is no additional Crisis Intervention Audit  
 2 scheduled, however, a Comprehensive Use of Force Audit is scheduled to occur by October  
 3 2019, which will include in-depth evaluations of SPD's uses of force in cases involving persons  
 4 in crisis.  
 5

6 **D. Update on the Status of Other Requirements of the Sustainment Plan to Date**

7 The City has also met the rest of its obligations under the Sustainment Plan to date,  
 8 including:

9       1. Policy Reviews. SPD timely reviewed its existing policies on Bias Free Policing  
 10 (Dkt. 451-1 at 25), Crisis Intervention (Dkt. 451-1), Use of Force (Dkts. 471-1 to 471-3 and 500-  
 11 1 to 500-5), Early Intervention System (Dkt. 502-1), and Stops and Detentions (Dkt. 461-1) since  
 12 March 2018, as required by the Sustainment Plan/Matrix. *See* (Dkt. 444-1). SPD also timely  
 13 shared draft policy changes in these areas with the United States and the Monitoring Team and  
 14 timely filed such proposed changes with the Court. Each have been approved by the Court and  
 15 have gone into effect.

16       2. Outcome Reports. SPD timely filed Outcome Reports with the content mandated  
 17 by the Sustainment Plan/Matrix regarding Community Engagement (Dkt. 452-1), Stops &  
 18 Detentions (Dkt. 458-1), Crisis Intervention (Dkt. 495-1), and Force Outcomes (Dkt. 442-1).

19       3. Quarterly Reports. SPD timely filed Quarterly Reports with the content mandated  
 20 by the Sustainment Plan/Matrix on July 31, 2018 (Dkt. 470), October 31, 2018 (Dkt. 497), and  
 21 January 31, 2019 (Dkt. 523).

### III. CONCLUSION

For the foregoing reasons, the United States advises the Court that, since March 2018, the City has met all required deadlines set forth in the Sustainment Plan, has worked in good faith with the United States and the Monitoring Team to comply with all requirements of the Consent Decree, and has demonstrated sustained compliance with each of the areas evaluated pursuant to the plan's deadlines.

DATED this 28th day of February, 2019.

For the UNITED STATES OF AMERICA:

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**CERTIFICATE OF SERVICE**

I certify that on the 28th day of February 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following attorneys of record:

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DATED this 28<sup>th</sup> day of February, 2019.

s/ Brittany Cirineo  
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